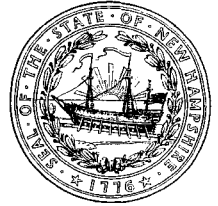




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

September 15, 2005

John Galloway
Galloway Trucking, Inc.
Roadstone Drive
Plaistow, NH 03865-0809

CERTIFIED MAIL (7099 3400 0018 1290 1301)
RETURN RECEIPT REQUESTED
LETTER OF DEFICIENCY
No. ARD 2005-011

Dear Mr. Galloway:

On May 6, 2005, the New Hampshire Department of Environmental Services, Air Resources Division ("DES") conducted a compliance inspection of Galloway Trucking, Inc., ("Galloway") located on Roadstone Drive in Plaistow, NH ("the Facility"). The purpose of the inspection was to determine Galloway's compliance status with the N.H. Administrative Rules Env-A 100 *et seq.*, and with Temporary Permit No. FP-T-0102 ("the Temporary Permit").

Background

On September 26, 2003, DES issued the Temporary Permit to Roadstone, Inc. ("Roadstone") for the operation of five diesel generators. Although the Temporary Permit was issued to Roadstone, this was in error. The company that actually owns Engines #2-5 and operates the gravel operation is named Galloway. The device listed as Generator #6 in the Temporary Permit was proposed to be installed by Galloway in 2003, but was never installed at the Facility. The Temporary Permit expired on March 31, 2005.

On December 14, 2004, Galloway submitted an application for a State Permit to Operate for the four diesel generators (Engines #2-5), which provide electrical power to run Galloway's gravel operation. Also, Galloway specified in its application that the purpose of the generators was to operate the crushing equipment. DES contacted Galloway and informed them that they needed to submit application forms for the crushing equipment at the Facility. On March 31, 2005, DES received an application for the existing crushing equipment.

On April 1, 2005, DES received a separate application and ARD forms for a proposed portable crusher and an additional engine to be used to power the crusher.

Generators

Galloway installed Generator #5 in 1988, and should have obtained a permit from DES in 1990. Galloway installed Generator #4 in 1992 and should have obtained a permit prior to installation. Galloway installed Generator #2 and #3 in 1998 and required a permit at that time.

Accordingly, Galloway operated Generator #4 without a permit from installation in 1992 until the issuance of the Temporary Permit in September 2003. Galloway operated Generator #5 without a permit from the date of promulgation of Env-A 603.02(d) on December 27, 1990, until the issuance of the Temporary Permit in September 2003. Lastly, Galloway operated Generators #2 and #3 without a permit from installation in 1998 until the issuance of the Temporary Permit in September 2003.

Crusher

On March 31, 2005, DES received a permit application for the existing crushing plant. Accordingly, Galloway has operated the stationary crusher without a permit since the effective date of Env-A 603.02(1) on December 27, 1990 and until such time that it obtained a temporary permit to operate the crusher. On April 1, 2005, Galloway did submit the necessary ARD forms for an additional portable crusher and generator.

NOx Fund

Env-A 3700 requires any NOx-emitting generation source to report power generation, NOx emissions information and to make payment of fees to the NOx emissions reduction fund. Env-A 3702.01 defines, a "NOx-emitting" generation source as "any internal combustion engine or combustion turbine which generates electricity for use or sale, except for sources which meet the definition of a NOx budget source." Further, Env-A 3702.01 (a)-(e) exempts certain sources from the definition of NOx-emitting generation source. Based upon the compliance inspection conducted on May 6, 2005, DES determined that Generators #2, #3 and #4 are subject to Env-3700.

Since Galloway has not kept accurate records, DES calculated the emissions, using the gallons of #2 oil used in calendar years 1998 through 2003. On June 16, 2005, DES sent Galloway invoices in the amount of \$3,922.26 for past-due emission-based fees and for \$10,451.23 for NOx emission reduction fund fees. On August 1, 2005, DES received a check for payment of the emission-based fees in the amount of \$3,922.26.

Subpart OOO

On September 2, 2005, Galloway conducted the required visible emissions testing according to 40 CFR 60, Subpart OOO at the facility. DES personnel observed the testing being conducted at the facility, and was given a hand-written preliminary report. DES has not received the final report and results, but expects to receive the report within 60 days of the testing date.

Deficiencies

This Letter of Deficiency ("LOD") is being sent to notify Galloway of the deficiencies identified as a result of the inspection and subsequent file review and the necessary actions required to resolve them. The deficiencies are as follows:

1. Env-A 902.01 and 903.02 require Galloway to keep accurate records of the amount of material processed by the stationary crusher. The facility has not kept accurate records but estimates that the crusher has processed approximately 200,000 tons of aggregate per year.
2. 40 CFR 60, Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants requires Galloway to conduct visible emissions testing at all emission points for all crushing and material handling equipment constructed after 1983. Galloway conducted the required testing on September 2, 2005.
3. Env-A 907.01 and 907.03 require Galloway to submit all annual emissions reports by April 15 for the preceding year of operation. On May 2, 2005, Galloway submitted an annual emission report for its operation during calendar year 2004. Galloway has not submitted annual emissions reports for calendar years 1998 through 2003.

4. Env-A 3701.02 requires Galloway to pay fees for its generation of NOx emissions from its generators that are subject to the NOx Emissions Reduction Fund. Based upon information submitted by Galloway in its application for the Temporary Permit, DES determined that Generators #3 and #4 were not subject to Env-A 3700. Galloway claimed that the stationary crusher was portable, and that the engines which powered it were not subject to the rule. However, based upon the site visit conducted on May 6, 2005, the crusher is stationary, and Generators #2, #3 and #4 are subject to the NOx Emissions Reduction Fund. In addition, DES has determined that Generator #5 is not subject to Env-A 3700 since it is portable. Galloway has not paid NOx Emissions Reduction Fund fees for Generators #3 and #4 for calendar years 2000 through 2004.

DES believes that the above-referenced deficiencies can be resolved by Galloway taking the following actions:

5. Env-A 902.01 and 903.02 requires Galloway to keep accurate records of the amount of material processed by the stationary crusher. DES requests that in the future, Galloway keep accurate records of the material processed by its stationary crusher.
6. Within 30 days of the date of issuance of this LOD, submit the past due NOx emissions fee payment in the amount of \$10,451.23 as required by Env-A 3701.02.

In the event that Galloway fails to resolve the deficiencies noted above and within the time periods indicated, DES may initiate further action against Galloway, including issuing an order requiring the deficiencies to be corrected, and/or referring this matter to the NH Department of Justice.

Any payment made pursuant to paragraph #7 above, should be made payable to "Treasurer State of New Hampshire" and sent along with any other information to Sonny Strickland, at the following address:

NHDES Air Resources Division
Compliance Bureau
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

Please be advised that DES will continue to monitor Galloway's compliance status and that this letter does not provide relief against any other existing or future deficiencies. It is important that Galloway be aware of and complies with all the requirements in its Permit.

Please feel free to contact DES should you have any questions regarding compliance with the N.H. Code of Administrative Rules Env-A 100 *et seq.*, and the requirements of the Permit. A current copy of the rules can be obtained from the DES website at www.des.state.nh.us/ard/ardrules.htm, or by contacting the Public Information Center at (603) 271-2975. If you have any questions regarding this matter, please contact Ray Walters at (603)-271-6288.

Sincerely,

A handwritten signature in black ink is written over the word "COPY", which is printed in large, bold, outlined capital letters. The signature appears to be "P. Monroe" with a long horizontal flourish extending to the right.

Pamela G. Monroe
Compliance Bureau Administrator
Air Resources Division

PGM/emj

cc: R. Scott, NHDES-ARD
R. Kurowski, EPA Region 1
G. Hamel, DES Legal Unit
M. Heitz, Chairman of Selectmen, Town of Kingston
R. Jenne, Executive Secretary of Selectman, Town of Plaistow
Enforcement File